

REMARKS

This Amendment is in response to the Office Action mailed on 12/15/2003. In the Office Action, claims 1-12 were examined while claims 13-52 and 58-72 were withdrawn due to a restriction requirement. Of the examined claims, claim 3 was objected but allowable; claims 7-8 were objected for lacking antecedent basis; and claims 1-2 and 4-12 were rejected under 35 U.S.C. § 103(a). Reexamination and reconsideration in view of the amendments and the remarks made herein is respectfully requested.

Applicant has amended claims 1, 13-14, 16, 22, 25, 27-29, 31-32, 34, 36-41, and 43-52. Applicant has cancelled claims 2-3, 17, 19, 21, 26, 35, 42, and 58-72 by this response. Applicant has added new dependent claims 73-80. Claims 53-57 were previously cancelled. Accordingly, claims 1, 4-16, 18, 20, 22-25, 27-34, 36-41, 43-52, and 73-80 are now pending. Of the pending claims, claims 1, 13, 27, 32, and 41 are independent claims.

Applicant believes that no new matter has been added by this response

I) RESTRICTION REQUIREMENT

On page 2 of the Office Action, claims 1-52 and 58-72 were restricted into independent inventions.

Claims 1-52 were restricted to class I; and claims 58-72 were restricted to class II.

Claims 1-52 were further restricted into species under a genus-species restriction requirement as follows:

Claims 1-12 were restricted to species I,

Claims 13-26 were restricted to species II,

Claims 27-52 were restricted to species III.

Claims 1-12 of species I of class I were examined in the Office Action. Claims 13-26 of species II, claims 27-52 of species III, and claims 58-72 of class II are currently withdrawn.

Applicant has cancelled claims 58-72 without prejudice in response to the restriction requirement.

Applicant has amended independent claims 13, 27, 32 and 42 to include the limitations of claim 1 so as to make claim 1 a generic claim.

Applicant has amended the dependent claims to be consistent with the amendments of each of the independent claims 13, 27, 32 and 42 and to avoid duplicate claims. Applicant has cancelled without prejudice dependent claims 17, 19, 21, 26, 35, and 42 of the various unexamined species as they contain limitations that were added into the independent claim or were redundant with the limitations of the base claim.

Upon finding that generic claim 1 is allowable, Applicant respectfully submits that claims 13-16, 18, 20, and 22-25 of Species II; and claims 27-34, 36-41, 43-52 of Species III, which are currently withdrawn, are also in condition for allowance.

Applicant has amended independent amended independent claims 13, 27, 32 and 42 to include the all of the limitations of claim 1.

Pursuant to 37 CFR 1.141(a), independent claims 13, 27, 32 and 42 include "all of the limitations of the generic claim", claim 1. According to the Manual of Patent Examining Procedures, "(B) When a generic claim is subsequently found to be allowable, and not more than a reasonable number of additional species are claimed, treatment shall be as follows:

(1) When all claims to each of the additional species are embraced by an allowable generic claim as provided by 37 CFR 1.141, applicant must be advised of the allowable generic claim and that claims drawn to the nonelected species are no longer withdrawn since they are fully embraced by the allowed generic claim." [MPEP § 809.02(c), Original 8th Edition, Aug. 2001, Page 800-50; see also 37 CFR § 1.141(a)].

Thus, after generic claim 1 is found allowable, Applicant respectfully submits that the Species 2 and 3 claims (claims 13-16, 18, 20, 22-25 and claims 27-34, 36-41, 43-52) should no longer be withdrawn as they are embraced by the limitations of the generic claim, claim 1. Furthermore as claim 1 is in condition for allowance and the Species 2 and 3 claims include the same limitations as claim 1 or more, Applicant respectfully submits that the Species 2 and 3 claims are also in condition for allowance.

II) CLAIM OBJECTIONS

On page 6 of the Office Action, Claim 3 was objected to for being dependent upon a rejected base claim, but would be allowed if rewritten into independent form including all of the limitations of the base claim and any intervening claims.

Claim 3 depends from claim 2. Claim 2 depends from claim 1.

Applicant has copied the limitations of claims 2 and 3 into claim 1 such that claim 1 is now in condition for allowance as it is the equivalent of claim 3 in independent form.

Claims 2 and 3 have been cancelled accordingly.

Amending claim 1 in this fashion places claim 1 in condition for allowance for the same reasons that claim 3 would

be in condition for allowance if rewritten into independent form.

On page 4 of the Office Action, claims 7 and 8 were objected to by the Office Action due to alleged informalities in the claims. Applicant respectfully traverses this objection.

The Office Action alleges that in claims 7 and 8, line 2, the recited limitation "a second material" should be changed to --the second material--. Applicant respectfully disagrees.

Claims 7 and 8 are method claims that primarily recite functional limitations. Structural limitations in a method claim are often introduced inferentially in the elements of method claims.

Both claims 7 and 8 depend directly from independent claim 1. Independent claim 1 does not recite the limitation of "a second material". The phrase "a second material" is inferentially introduced in the elements recited in claims 7 and 8. It is proper to introduce a new limitation with "a" and not "the".

For the foregoing reasons, Applicant respectfully submits that "a second material" is properly introduced in claims 7 and 8 and respectfully requests the withdrawal of this objection.

III) NEW CLAIMS

Applicant has added new dependent claims 73-80.

New claims 73-76 depend directly from dependent claim 6 and indirectly from independent claim 1.

New claims 77-80 depend directly from dependent claim 7 and indirectly from independent claim 1.

Applicant believes independent claim 1 has been placed in condition for allowance such that dependent claims depending there from with additional limitations are also in condition for allowance.

Thus, Applicant respectfully submits that new claims 73-80 are also in condition for allowance.

IV) CLAIM REJECTIONS UNDER 35 U.S.C. § 103(a)

On pages 4-5 of the Office Action, claims 1-2 and 4-9 were rejected to under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 4,703,554 issued to Havemann (Havemann) in view of U.S. Patent 5,068,202 issued to Crotti, et al. (Crotti). (Note there is a typo in the Office Action rejection - claim 3 is indicated as being allowable over the prior art). Applicant respectfully traverses this rejection.

In the Office Action, claims 10-12 were rejected to under 35 U.S.C. § 103(a) as being unpatentable over Havemann in view of Crotti and U.S. Patent 6,225,176 B1 issued to Yu (Yu) [Office Action, page 5]. Applicant respectfully traverses this rejection.

As discussed previously, Applicant has amended independent claim 1 to include the limitations of dependent claims 2 and 3. On page 6 of the Office Action, claim 3 was indicated as being allowable if rewritten into independent form including the limitations of claims 1 and 2. Thus with the limitations of claims 2 and 3 added into claim 1, independent claim 1 is in condition for allowance over the prior art of record.

Rejected claim 2 has been cancelled, its limitations added into independent claim 1, so the rejection thereof is now moot.

Rejected dependent claims 4-12 depend directly or indirectly from independent claim 1.

Applicant believes that it has placed independent claim 1 in condition for allowance such that dependent claims 4-12 depending there from with added limitations are also in condition for allowance. "If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending there from is nonobvious." [MPEP § 21432.03; Original 8th Edition, Aug. 2001, Pg. 2100-126 citing *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed.Cir. 1988)].

For the foregoing reasons, Applicant respectfully request the withdrawal of the 35 USC 103(a) claim rejections of claims 1-2 and 4-12.

V) SPECIFICATION AMENDMENTS

Applicant has amended paragraphs of the section "Cross Reference to Related Applications" on page 1 of the specification in order to update the status of the related applications.

Applicant has further amended three consecutive paragraphs starting at page 28, line 18, changing the reference numbers so as to avoid overlap with previously used reference numbers and to be consistent therewith.

VI) DRAWING AMENDMENTS

The drawings of Figures 11A-11B, 12A-12B, and 13A-13B have been amended to avoid overlapping reference numbers in accordance with the amendments to the specification. Each reference number in these figures had 1000 added to them. A

clean version of the drawing sheet of Figures 11A-11B, 12A-12B, and 13A-13B is attached hereto as Appendix I. An annotated version of the drawing changes is attached hereto as Appendix II.

Applicant respectfully requests approval of these drawing changes.

CONCLUSION

In view of the foregoing it is respectfully submitted that claims 1, 4-12, and 73-80 are in condition for allowance.

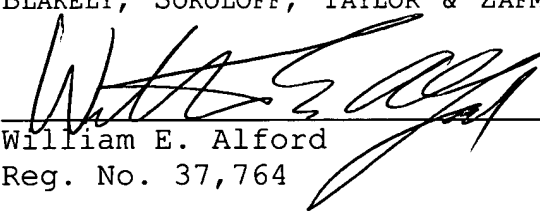
Reconsideration of the rejections and objections is requested. Allowance of the claims at an early date is solicited.

The Examiner is invited to contact Applicant's undersigned counsel by telephone at (714) 557-3800 to expedite the prosecution of this case should there be any unresolved matters remaining.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees in connection with the filing of this paper, including extension of time fees, to Deposit Account 02-2666 and please credit any excess fees to such deposit account.

Respectfully submitted,
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Dated: March 15, 2004



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CERTIFICATE OF MAILING

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450 Alexandria, VA 22313-1450 on: March 15, 2004.



Susan McFarlane
Date 3/15/04